

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

MARCTEC, LLC,

Plaintiff,

v.

**JOHNSON & JOHNSON and
CORDIS CORPORATION,**

Defendants.

Case No. 07-cv-825-DRH

ORDER

HERNDON, Chief Judge:

Before the Court is Defendants' Motion for Oral Argument on Defendants' *Daubert* Motion (Doc. 116), to which Plaintiff has responded in partial opposition (Doc. 117) and Defendants have replied (Doc. 119). Defendants request oral argument on their Sealed *Daubert* Motion to Exclude Testimony by Plaintiff's Experts (Doc. 114) on the same day that the Court has scheduled the *Markman* hearing and a hearing on defendant Cordis' Motion for Summary Judgment (Doc. 68): February 19, 2009. Plaintiff also believes that a hearing on the *Daubert* Motion would be beneficial, but opposes oral argument until the Court has conducted the *Markman* hearing and rendered its claim construction ruling. Conversely, Defendants believe that their "*Daubert* motion provides context for an analysis of claim construction issues . . ." (Doc. 119).

Upon review, the Court believes that the most practical and efficient way to handle this matter is for it to proceed with the *Markman* hearing, set for February 19, 2009, but to continue its hearing on Cordis' Motion for Summary Judgment (Doc. 68), also set for that day. In so doing, the Court will be able to render its ruling on the claim construction issues first, and then schedule subsequent oral argument on the pending *Daubert* and summary judgment motions if the Court deems them necessary and if the Courts schedule allows.¹ Accordingly, Defendants' Motion for Oral Argument on Defendants' *Daubert* Motion (Doc. 116) is **DENIED** at this time.

IT IS SO ORDERED.

Signed this 15th day of January, 2009.

/s/ David R. Herndon

**Chief Judge
United States District Court**

¹ In their briefings, the Parties indicate that additional *Daubert* and summary judgment motions are likely to be filed in the near future.